

109TH CONGRESS
1ST SESSION

S. 1937

To expand certain preferential trade treatment for Haiti.

IN THE SENATE OF THE UNITED STATES

OCTOBER 27, 2005

Mr. DEWINE (for himself, Mr. NELSON of Florida, Mr. LUGAR, Mr. BIDEN, Mr. COLEMAN, Mr. DODD, Mr. HAGEL, Mr. DURBIN, Mr. MCCAIN, Mr. LIEBERMAN, Mr. MARTINEZ, Mr. BINGAMAN, Mr. SUNUNU, Mr. JEFFORDS, Mr. LAUTENBERG, Mr. CHAFEE, Mr. VOINOVICH, and Mr. SMITH) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To expand certain preferential trade treatment for Haiti.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Haiti Economic Recov-
5 ery Opportunity Act”.

6 **SEC. 2. TRADE BENEFITS TO HAITI.**

7 (a) IN GENERAL.—The Caribbean Basin Economic
8 Recovery Act (19 U.S.C. 2701 et seq.) is amended by in-
9 serting after section 213 the following new section:

1 **“SEC. 213A. SPECIAL RULE FOR HAITI.**

2 “(a) IN GENERAL.—In addition to any other pref-
3 erential treatment under this Act, beginning on October
4 1, 2004, and in each of the 7 succeeding 1-year periods,
5 apparel articles described in subsection (b) that are im-
6 ported directly into the customs territory of the United
7 States from Haiti shall enter the United States free of
8 duty, subject to the limitations described in subsections
9 (b) and (c), if Haiti has satisfied the requirements and
10 conditions set forth in subsections (d) and (e).

11 “(b) APPAREL ARTICLES DESCRIBED.—Apparel arti-
12 cles described in this subsection are apparel articles that
13 are wholly assembled or knit-to-shape in Haiti from any
14 combination of fabrics, fabric components, components
15 knit-to-shape, and yarns without regard to the country of
16 origin of the fabrics, components, or yarns.

17 “(c) PREFERENTIAL TREATMENT.—The preferential
18 treatment described in subsection (a), shall be extended—

19 “(1) during the 12-month period beginning on
20 October 1, 2004, to a quantity of apparel articles
21 that is equal to 1.5 percent of the aggregate square
22 meter equivalents of all apparel articles imported
23 into the United States during the 12-month period
24 beginning October 1, 2003; and

1 “(2) during the 12-month period beginning on
2 October 1 of each succeeding year, to a quantity of
3 apparel articles that is equal to the product of—

4 “(A) the percentage applicable during the
5 previous 12-month period plus 0.5 percent (but
6 not over 3.5 percent); and

7 “(B) the aggregate square meter equiva-
8 lents of all apparel articles imported into the
9 United States during the 12-month period that
10 ends on September 30 of that year.

11 “(d) ELIGIBILITY REQUIREMENTS.—Haiti shall be
12 eligible for preferential treatment under this section if the
13 President determines and certifies to Congress that Haiti
14 is meeting the conditions of subsection (e) and that
15 Haiti—

16 “(1) has established, or is making continual
17 progress toward establishing—

18 “(A) a market-based economy that protects
19 private property rights, incorporates an open
20 rules-based trading system, and minimizes gov-
21 ernment interference in the economy through
22 measures such as price controls, subsidies, and
23 government ownership of economic assets;

1 “(B) the rule of law, political pluralism,
2 and the right to due process, a fair trial, and
3 equal protection under the law;

4 “(C) the elimination of barriers to United
5 States trade and investment, including by—

6 “(i) the provision of national treat-
7 ment and measures to create an environ-
8 ment conducive to domestic and foreign in-
9 vestment;

10 “(ii) the protection of intellectual
11 property; and

12 “(iii) the resolution of bilateral trade
13 and investment disputes;

14 “(D) economic policies to reduce poverty,
15 increase the availability of health care and edu-
16 cational opportunities, expand physical infra-
17 structure, promote the development of private
18 enterprise, and encourage the formation of cap-
19 ital markets through microcredit or other pro-
20 grams;

21 “(E) a system to combat corruption and
22 bribery, such as signing and implementing the
23 Convention on Combating Bribery of Foreign
24 Public Officials in International Business
25 Transactions; and

1 “(F) protection of internationally recog-
2 nized worker rights, including the right of asso-
3 ciation, the right to organize and bargain collec-
4 tively, a prohibition on the use of any form of
5 forced or compulsory labor, a minimum age for
6 the employment of children, and acceptable con-
7 ditions of work with respect to minimum wages,
8 hours of work, and occupational safety and
9 health;

10 “(2) does not engage in activities that under-
11 mine United States national security or foreign pol-
12 icy interests; and

13 “(3) does not engage in gross violations of
14 internationally recognized human rights or provide
15 support for acts of international terrorism and co-
16 operates in international efforts to eliminate human
17 rights violations and terrorist activities.

18 “(e) CONDITIONS REGARDING ENFORCEMENT OF
19 CIRCUMVENTION.—

20 “(1) IN GENERAL.—The preferential treatment
21 under subsection (b) shall not apply unless the
22 President certifies to Congress that Haiti is meeting
23 the following conditions:

24 “(A) Haiti has adopted an effective visa
25 system, domestic laws, and enforcement proce-

1 dures applicable to articles described in sub-
2 section (b) to prevent unlawful transshipment
3 of the articles and the use of counterfeit docu-
4 ments relating to the importation of the articles
5 into the United States.

6 “(B) Haiti has enacted legislation or pro-
7 mulgated regulations that would permit the Bu-
8 reau of Customs and Border Protection
9 verification teams to have the access necessary
10 to investigate thoroughly allegations of trans-
11 shipment through such country.

12 “(C) Haiti agrees to report, on a timely
13 basis, at the request of the Bureau of Customs
14 and Border Protection, on the total exports
15 from and imports into that country of articles
16 described in subsection (b), consistent with the
17 manner in which the records are kept by Haiti.

18 “(D) Haiti agrees to cooperate fully with
19 the United States to address and take action
20 necessary to prevent circumvention.

21 “(E) Haiti agrees to require all producers
22 and exporters of articles described in subsection
23 (b) in that country to maintain complete
24 records of the production and the export of the
25 articles, including materials used in the produc-

1 tion, for at least 2 years after the production or
2 export (as the case may be).

3 “(F) Haiti agrees to report, on a timely
4 basis, at the request of the Bureau of Customs
5 and Border Protection, documentation estab-
6 lishing the country of origin of articles de-
7 scribed in subsection (b) as used by that coun-
8 try in implementing an effective visa system.

9 “(2) DEFINITIONS.—In this subsection:

10 “(A) CIRCUMVENTION.—The term ‘cir-
11 cumvention’ means any action involving the
12 provision of a false declaration or false informa-
13 tion for the purpose of, or with the effect of,
14 violating or evading existing customs, country
15 of origin labeling, or trade laws of the United
16 States or Haiti relating to imports of textile
17 and apparel goods, if such action results—

18 “(i) in the avoidance of tariffs,
19 quotas, embargoes, prohibitions, restric-
20 tions, trade remedies, including anti-
21 dumping or countervailing duties, or safe-
22 guard measures; or

23 “(ii) in obtaining preferential tariff
24 treatment.

1 “(B) TRANSSHIPMENT.—The term ‘trans-
2 shipment’ has the meaning given such term
3 under section 213(b)(2)(D)(iii).”.

4 (b) EFFECTIVE DATE.—

5 (1) IN GENERAL.—The amendment made by
6 subsection (a) applies with respect to goods entered,
7 or withdrawn from warehouse for consumption, on
8 or after October 1, 2004.

9 (2) RETROACTIVE APPLICATION TO CERTAIN
10 ENTRIES.—Notwithstanding section 514 of the Tar-
11 iff Act of 1930 (19 U.S.C. 1514) or any other provi-
12 sion of law, upon proper request filed with the
13 United States Customs Service before the 90th day
14 after the date of the enactment of this Act, any
15 entry or withdrawal from warehouse for consump-
16 tion, of any goods described in the amendment made
17 by subsection (a)—

18 (A) that was made on or after October 1,
19 2004, and before the date of the enactment of
20 this Act, and

21 (B) with respect to which there would have
22 been no duty if the amendment made by sub-
23 section (a) applied to such entry or withdrawal,
24 shall be liquidated or reliquidated as though

- 1 such amendment applied to such entry or with-
- 2 drawal.

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